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20SF-CC00191 - RON COMPARATO V. MOCAP LLC (E-CASE)

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Document ID: 20-SMCC-766, for JOHN DOE ENTITY.

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Document ID: 20-SMCC-765, for MOCAP LLC.

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Filed By: JACLYN MARIE ZIMMERMANN

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On Behalf Of: RON COMPARATO

IN THE CIRCUIT COURT OF ST. FRANCOIS COUNTY
STATE OF MISSOURI

RON CAMPARATO

Plaintiff,

v.

MOCAP LLC

Serve: Michael C. Krull
409 Parkway Drive
Park Hills, MO 63601

And

JOHN DOE ENTITY

Defendants.

Case No. _____

Jury Trial Demanded

PETITION FOR DAMAGES

COMES NOW Plaintiff and for his Petition for Damages against Defendants states:

Nature of Action

1. This action is brought pursuant to the Americans with Disabilities Act (ADA) for disability discrimination.

Parties

2. Plaintiff Ron Comparato is an individual over the age of 18 and a resident of Missouri.

3. Defendant MOCAP LLC (hereinafter MOCAP or Defendant) is a Missouri company located at 409 Parkway Drive, Park Hills, Missouri.

4. Pleading hypothetically and in the alternative, Defendant John Doe Entity is a Missouri company located at 409 Parkway Drive, Park Hills Missouri.

5. At all times relevant to this lawsuit, Plaintiff was an employee of Defendant MOCAP and/or John Doe Entity.

6. At all times relevant to this lawsuit, Defendant MOCAP and/or John Doe Entity was an employer within the meaning of the ADA.

Venue

7. Venue is proper in St. Francois County because all of the events complained of herein occurred in St. Francois County, as the unlawful discriminatory practices occurred in St. Francois County, Missouri.

Procedural Prerequisites

8. On or about September 26, 2019, Plaintiff timely submitted a charge of discrimination against Defendants with the EEOC, Charge No. 560-2020-00149, where he alleged Defendants unlawfully discriminated against him based on disability.

9. On or about August 19, 2020, the EEOC issued its Notice of Right to Sue, and Plaintiff instituted this action within 90 days of his receipt of the Notice of Right to Sue. (See Plaintiff's Exhibit 1 which is attached hereto and incorporated herein).

Factual Allegations

10. Plaintiff worked for Defendant MOCAP from January 8, 2018 until he was terminated on January 3, 2019.

11. Plaintiff was an SQL Developer, and part of the Information Technology ("IT") department.

12. Plaintiff's direct supervisor was Jason Froidcoeur.

13. MOCAP manufactures plastic and rubber protective products.

14. Shortly after Plaintiff began the job, he was diagnosed with low testosterone and low blood sugar.

15. These conditions were so severe that Plaintiff suffered neurological damage.

16. Due to these conditions, Plaintiff began receiving weekly shots at a doctor's office.

17. Plaintiff also required further testing to determine the cause of the conditions.

18. Plaintiff asked for accommodations in the form of working from home one day a week, Thursdays, so that he could obtain the shots and further testing.

19. Plaintiff was initially allowed the accommodation from HR.

20. Froidcoeur did not agree with the accommodation.

21. Froidcoeur complained to Plaintiff about the accommodation constantly.

22. Froidcoeur was unhappy that Plaintiff's disability accommodations were being allowed by HR.

23. Froidcoeur began disciplining Plaintiff for working from home.

24. Plaintiff was able to do his work despite having the accommodations, as his job duties were such that he was able to do them at home remotely.

25. On or about January 3, 2019, Plaintiff was terminated by Froidcoeur.

26. Froidcoeur no longer wanted to accommodate Plaintiff's disability.

27. Prior to his termination, Plaintiff had received no criticisms of his work by Froidcoeur or anyone else.

28. Plaintiff was terminated by Froidcoeur because he was disabled and because he asked for accommodations.

Count I-Violation of the ADA
Disability Discrimination
Disparate Treatment

29. Plaintiff incorporates by reference, as if fully set forth herein, each and every allegation set forth in the preceding paragraphs and further alleges as follows:

30. Plaintiff is disabled, as he has physical impairments, including low testosterone, low blood sugar, and neurological damage, that limit one or more of his major life activities, and is therefore a member of a protected group.

31. Because of his disability, Plaintiff was discriminated against and suffered adverse employment action by Defendant, including discipline and termination.

32. Plaintiff was capable of performing the essential functions of his job despite his disability.

33. Plaintiff's disability was a motivating factor in Defendant's conduct.

34. As a result of the discrimination, Plaintiff has suffered damages, including but not limited to lost wages and emotional distress.

35. Defendant's conduct was outrageous because of an evil motive and reckless indifference to the rights of Plaintiff, in that Defendant intentionally terminated his employment and discriminated against Plaintiff without just cause or excuse in violation of the ADA.

WHEREFORE, Plaintiff prays for judgment in her favor and against Defendant for damages in excess of \$25,000, including both actual and punitive damages, for the costs incurred herein and expended, for attorneys' fees, and for such other and further relief as the Court deems just.

Count II-Violation of the ADA
Disability Discrimination
Disparate Treatment/Regarded as Disabled

36. Plaintiff incorporates by reference, as if fully set forth herein, each and every allegation set forth in the preceding paragraphs and further alleges as follows:

37. Plaintiff is disabled, because Defendant regarded Plaintiff as having a disability.

38. Because of his disability, Plaintiff was discriminated against and suffered adverse employment action by Defendant, including discipline and termination.

39. Plaintiff was capable of performing the essential functions of his job despite his disability.

40. Plaintiff's disability was a motivating factor in Defendant's conduct.

41. As a result of the discrimination, Plaintiff has suffered damages, including but not limited to lost wages and emotional distress.

42. Defendant's conduct was outrageous because of an evil motive and reckless indifference to the rights of Plaintiff, in that Defendant intentionally terminated his employment and discriminated against Plaintiff without just cause or excuse in violation of the ADA.

WHEREFORE, Plaintiff prays for judgment in his favor and against Defendant for damages in excess of \$25,000, including both actual and punitive damages, for the costs incurred herein and expended, for attorneys' fees, and for such other and further relief as the Court deems just.

Count III – Violation of the ADA
Failure to Accommodate

43. Plaintiff incorporates by reference, as if fully set forth herein, each and every allegation set forth in the preceding paragraphs and further alleges as follows:

44. Plaintiff is disabled and is therefore a member of a protected group.

45. Defendant failed to accommodate Plaintiff's disability despite reasonable requests by Plaintiff, in that he was disciplined for using the accommodation, it stopped accommodating him, and instead fired him.

46. As a result of Defendant's failure to accommodate Plaintiff, Plaintiff suffered adverse employment action and was terminated.

47. Plaintiff's disability was the motivating factor in the adverse employment action taken against him.

48. Plaintiff was damaged as a result of the adverse employment action taken against him.

49. Defendant's conduct as set forth above was outrageous because of an evil motive and reckless indifference to the rights of Plaintiff, in that Defendant intentionally discriminated against Plaintiff without just cause or excuse in violation of the ADA.

WHEREFORE, Plaintiff prays for judgment in her favor and against Defendant for damages in excess of \$25,000, including both actual and punitive damages, for the costs incurred herein and expended, for attorneys' fees, and for such other and further relief as the Court deems just.

Respectfully submitted,

PONDER ZIMMERMANN LLC

By /s/ Jaclyn Zimmermann
Jaclyn M. Zimmermann, #57814
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dbp@ponderzimmermann.com
20 S. Sarah
St. Louis, MO 63108
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Attorneys for Plaintiff Ron Comparato



IN THE 24TH JUDICIAL CIRCUIT, ST. FRANCOIS COUNTY, MISSOURI

Judge or Division:	Case Number: 20SF-CC00191	(Date File Stamp)
Plaintiff/Petitioner: RON COMPARATO	Plaintiff's/Petitioner's Attorney/Address JACLYN MARIE ZIMMERMANN 1141 S 7TH STREET STE 309 ST LOUIS, MO 63104	
Defendant/Respondent: MOCAP LLC	Court Address: 1 N WASHINGTON ST FARMINGTON, MO 63640	
Nature of Suit: CC Other Tort		

Summons in Civil Case

The State of Missouri to: MOCAP LLC Alias: 409 PARKWAY DRIVE PARK HILLS, MO 63601  COURT SEAL OF ST. FRANCOIS COUNTY		You are summoned to appear before this court and to file your pleading to the petition, a copy of which is attached, and to serve a copy of your pleading upon the attorney for plaintiff/petitioner at the above address all within 30 days after receiving this summons, exclusive of the day of service. If you fail to file your pleading, judgment by default may be taken against you for the relief demanded in the petition. <div style="display: flex; justify-content: space-between;"> <div> 11/16/2020 Date </div> <div> /s/Vicki Weible by: Jennifer Webb Clerk </div> </div>
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Sheriff's or Server's Return

Note to serving officer: Summons should be returned to the court within 30 days after the date of issue.

I certify that I have served the above summons by: (check one)

- ☐ delivering a copy of the summons and a copy of the petition to the defendant/respondent.
- ☐ leaving a copy of the summons and a copy of the petition at the dwelling place or usual abode of the defendant/respondent with _____, a person of the defendant's/respondent's family over the age of 15 years who permanently resides with the defendant/respondent.
- ☐ (for service on a corporation) delivering a copy of the summons and a copy of the complaint to: _____ (name) _____ (title).
- ☐ other: _____.

Served at _____ (address)
 in _____ (County/City of St. Louis), MO, on _____ (date) at _____ (time).

 Printed Name of Sheriff or Server

 Signature of Sheriff or Server

Must be sworn before a notary public if not served by an authorized officer:

Subscribed and sworn to before me on _____ (date).

(Seal)

My commission expires: _____
 Date

 Notary Public

Sheriff's Fees, if applicable

Summons	\$ _____
Non Est	\$ _____
Sheriff's Deputy Salary	
Supplemental Surcharge	\$ 10.00
Mileage	\$ _____ (_____ miles @ \$._____ per mile)
Total	\$ _____


A copy of the summons and a copy of the petition must be served on **each** defendant/respondent. For methods of service on all classes of suits, see Supreme Court Rule 54.



IN THE 24TH JUDICIAL CIRCUIT, ST. FRANCOIS COUNTY, MISSOURI

Judge or Division:	Case Number: 20SF-CC00191	(Date File Stamp)
Plaintiff/Petitioner: RON COMPARATO	Plaintiff's/Petitioner's Attorney/Address JACLYN MARIE ZIMMERMANN 1141 S 7TH STREET STE 309 ST LOUIS, MO 63104	
Defendant/Respondent: MOCAP LLC	Court Address: 1 N WASHINGTON ST FARMINGTON, MO 63640	
Nature of Suit: CC Other Tort		

Summons in Civil Case

The State of Missouri to: JOHN DOE ENTITY Alias: 409 PARKWAY DRIVE PARK HILLS, MO 63601	
 COURT SEAL OF ST. FRANCOIS COUNTY	<p>You are summoned to appear before this court and to file your pleading to the petition, a copy of which is attached, and to serve a copy of your pleading upon the attorney for plaintiff/petitioner at the above address all within 30 days after receiving this summons, exclusive of the day of service. If you fail to file your pleading, judgment by default may be taken against you for the relief demanded in the petition.</p> <p style="text-align: center;"> 11/16/2020 Date </p> <p style="text-align: right;"> /s/Vicki Weible by: Jennifer Webb Clerk </p>

Further Information:

Sheriff's or Server's Return

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I certify that I have served the above summons by: (check one)

- ☐ delivering a copy of the summons and a copy of the petition to the defendant/respondent.
- ☐ leaving a copy of the summons and a copy of the petition at the dwelling place or usual abode of the defendant/respondent with _____, a person of the defendant's/respondent's family over the age of 15 years who permanently resides with the defendant/respondent.
- ☐ (for service on a corporation) delivering a copy of the summons and a copy of the complaint to: _____ (name) _____ (title).
- ☐ other: _____.

Served at _____ (address)

in _____ (County/City of St. Louis), MO, on _____ (date) at _____ (time).

Printed Name of Sheriff or Server

Signature of Sheriff or Server

Must be sworn before a notary public if not served by an authorized officer:

Subscribed and sworn to before me on _____ (date).

(Seal)

My commission expires: _____

Date

Notary Public

Sheriff's Fees, if applicable

Summons \$ _____

Non Est \$ _____

Sheriff's Deputy Salary \$ 10.00

Supplemental Surcharge \$ _____

Mileage \$ _____ (_____ miles @ \$._____ per mile)

Total \$ _____

A copy of the summons and a copy of the petition must be served on **each** defendant/respondent. For methods of service on all classes of suits, see Supreme Court Rule 54.

IN THE TWENTY-FOURTH JUDICIAL CIRCUIT OF MISSOURI

ORDER ASSIGNING JUDGE

IN THE MATTER OF:

RON COMPARATO

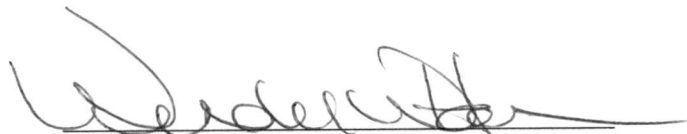
VS

MOCAP LLC

CASE NO. 20SF-CC00191

NOW ON THIS 17th day of November, 20 20, the undersigned, as Presiding Judge of the Twenty-fourth Judicial Circuit, pursuant to the powers granted by statute and local court rules, does assign the above-styled cause to the Honorable Jerel Lee Poor II.

IT IS FURTHER ORDERED that the judge assigned hereby shall have all powers and responsibilities for this cause as assigned by operation of law and the same shall continue until final disposition of the above-styled matter. The clerk is ordered to notify said Judge and counsel of this appointment.



WENDY WEXLER HORN
PRESIDING JUDGE
24TH JUDICIAL CIRCUIT